

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lily Carayannis	Team: Team # 1	CCRB Case #: 201406690	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/26/2014 11:25 PM	Location of Incident: Nostrand Avenue and Church Avenue	18 Mo. SOL 10/26/2015	Precinct: 67		
Date/Time CV Reported Thu, 07/03/2014 3:19 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 07/03/2014 3:19 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Guy	19685	950549	067 PCT
2. An officer			067 PCT
3. LT Mauvin Bute	00000	920064	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Santoro	01679	949621	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas Guy	Discourtesy: PO Thomas Guy spoke discourteously to § 87(2)(b)	
B.POM Thomas Guy	Abuse: PO Thomas Guy frisked § 87(2)(b)	
C.POM Thomas Guy	Abuse: PO Thomas Guy searched § 87(2)(b)	
D.POM Thomas Guy	Abuse: PO Thomas Guy searched the car in which § 87(2)(b) was an occupant.	
E.LT Mauvin Bute	Abuse: LT Mauvin Bute refused to provide his name to § 87(2)(b)	
F. An officer	Abuse: An officer refused to provide his shield number to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed the following complaint in person at the CCRB on July 3, 2014 (encl. B1-5).

On April 26, 2014, at approximately 11:20 p.m., § 87(2)(b) was stopped in his vehicle for reckless driving by PO Thomas Guy and LT Marvin Bute, both from the 67th Precinct. As a result of the incident, the following allegations arose:

Allegation A—Discourtesy: PO Thomas Guy spoke discourteously to § 87(2)(b)

Allegation E—Abuse of Authority: LT Mauvin Bute refused to provide his name to

§ 87(2)(b)

§ 87(2)(g)

Allegation B—Abuse of Authority: PO Thomas Guy frisked § 87(2)(b)

Allegation C—Abuse of Authority: PO Thomas Guy searched § 87(2)(b)

§ 87(2)(g)

Allegation D—Abuse of Authority: PO Thomas Guy searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Allegation F—Abuse of Authority: An officer refused to provide his shield number to

§ 87(2)(b)

§ 87(2)(g)

This case was not eligible for mediation.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- For pedigree and employment information, see enclosure B6.

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on July 3, 2014 (encl. B1-11).

On April 26, 2014, at approximately 11:20 p.m., § 87(2)(b) was pulled over at Nostrand Avenue and Erasmus Street in Brooklyn for reckless driving after he drove 50MPH on Church Avenue and Nostrand Avenue. § 87(2)(b) who owned the vehicle, was in the passenger street.

Upon stopping, § 87(2)(b) reached into his pocket and removed his identification and SBA card. The vehicle was still running. § 87(2)(b)

§ 87(2)(b) reached into the glove compartment and removed the vehicle's insurance and registration. PO Thomas Guy approached the driver's side of § 87(2)(b)'s vehicle (for pedigree information, see enclosure B8). PO Guy was the driver of the police vehicle. PO1, a

5'8" tall Hispanic male dressed in plainclothes, approached the passenger side of § 87(2)(b)'s vehicle and was in the back passenger seat of the police vehicle. § 87(2)(b) opened the front driver and passenger side windows. PO Guy leaned into the vehicle's window and said to § 87(2)(b) "Get out of the car or I will take you out of the car." § 87(2)(b) told him, "Sir, I am just trying to get to work right now, there is no need for the aggressive behavior. Here is my identification and SBA card." § 87(2)(b) handed PO Guy his identification and SBA card. PO Guy replied, "I don't give a shit about that, get out the car." § 87(2)(b) stepped out of the vehicle.

PO Guy frisked § 87(2)(b) when he stepped out of the vehicle. § 87(2)(b) was wearing blue jeans, red shoes, and a red hoody that zipped down the middle and had two pockets at waist level. PO Guy frisked his arms, chest, legs, waist, and pockets. PO Guy reached his fingers inside his shoes. In his left front pocket he had identification cards and his iPhone. None of his other pockets had any contents. PO Guy asked § 87(2)(b) to remove everything in his pockets. § 87(2)(b) removed his cellphone and his identification cards.

§ 87(2)(b) heard PO1 tell § 87(2)(b) to exit the vehicle as well. § 87(2)(b) walked to the back of the vehicle. PO Guy told § 87(2)(b) to go to the rear of the vehicle.

LT Bute exited the police vehicle and walked to the back § 87(2)(b)'s vehicle (for pedigree information, see enclosure B8). PO Guy entered § 87(2)(b)'s vehicle from the driver's side. § 87(2)(b) attempted to turn around to see what PO Guy was doing in his vehicle. He saw PO Guy searching the glove compartment and the center console, which has a flip top that was closed when § 87(2)(b) exited the vehicle. He also turned on his flashlight and shined it on the backseat. LT Bute and PO1 told § 87(2)(b) not to look back at the vehicle. The trunk is separate from the passenger cabin. PO Guy did not search the trunk of the vehicle.

PO Guy exited § 87(2)(b)'s vehicle. § 87(2)(b) returned to the passenger side of the vehicle, turned off the vehicle and removed the keys.

PO Guy told § 87(2)(b) that since he gave him a hard time, he was going to "tear [his] ass up" and give him a summons for § 87(2)(b).

The officers ran § 87(2)(b)'s identification and a warrant was found. The warrant was open as § 87(2)(b) had filed a criminal complaint against § 87(2)(b) prior to this incident following a domestic dispute. One of the officers asked § 87(2)(b) if she was the person who filed the complaint and she said that she was. At one point § 87(2)(b) asked LT Bute and PO1, "Can you identify yourself? What is your badge number and tax number?" § 87(2)(b) was approximately six feet away from the officers when he asked this. LT Bute and PO1 did not respond to this request, but they were both looking at him when he said it.

PO2, a white male in uniform, and PO3, a black male in uniform, arrived in a marked motor vehicle § 87(2)(b) was taken to the 67th Precinct. PO Guy gave § 87(2)(b) two summonses at the 67th Precinct stationhouse, § 87(2)(b)

At one point, after § 87(2)(b) was handcuffed, but before PO2 and PO3 arrived, § 87(2)(b) § 87(2)(b) filmed the incident on an iPhone (see below). The vehicle was released at the scene to § 87(2)(b)

Witness: § 87(2)(b)

- For pedigree information, see enclosure.

Telephone Statement

§ 87(2)(b) provided the following statement over the telephone on July 11, 2014 (encl. B13). She refused to provide an in-person statement for this case. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) confirmed being § 87(2)(b)'s passenger during the incident. PO2, who she described as an athletic Hispanic male dressed in plainclothes, approached the passenger side window and asked her to step out of the vehicle, which she did. § 87(2)(b) went to the driver's side of the vehicle near the sidewalk. § 87(2)(b) continued to argue with the officers regarding the stop and he asked § 87(2)(b) to film the incident with her cellphone, which she did. § 87(2)(b) did not see any officer search her vehicle nor did she see any officer enter into her vehicle. § 87(2)(b) could not recall if there was an additional officer at the location. At some point, after § 87(2)(b) was handcuffed, additional uniformed officers arrived, but she could not describe them. § 87(2)(b) vehicle was released to her.

Video taken by § 87(2)(b)

§ 87(2)(b) provided a cellphone video taken at the scene by § 87(2)(b). He identified himself as the male depicted in handcuffs. § 87(2)(b) argues with the officers regarding the stop. PO Guy, who was identified by the investigation, was identified by § 87(2)(b) as the officer who approached his driver's side window. A male voice can be heard off screen saying the name of the intersection, which the investigation identified as LT Bute (encl. B14).

NYPD Statements:

Subject Officer: PO THOMAS GUY

- *For pedigree and assignment information, see enclosure C10.*

Memo Book and Summonses

PO Guy's memo book and summonses that he issued § 87(2)(b) are consistent with his statement (encl. C1-9).

CCRB Statement

PO Guy was interviewed at the CCRB on October 28, 2014 (encl. C10-11).

On April 26, 2014, at approximately 11:20 p.m., PO Guy observed § 87(2)(b)'s vehicle change lanes without signaling, driving at approximately 50 MPH, and make a turn against a red light. PO Guy turned on his turret lights and siren and pulled § 87(2)(b) over at Nostrand Avenue and Erasmus Avenue. LT Bute was in the vehicle with him and no other officer was present.

PO Guy approached the driver's side of the vehicle and LT Bute approached the passenger side of the vehicle. § 87(2)(b) was in the passenger seat of the vehicle. The front driver's and front passenger's windows were open. As PO Guy approached he could see in the vehicle. Neither reached around the inside of the vehicle and both were sitting without moving. PO Guy did not suspect § 87(2)(b) of any other crime other than reckless driving at that moment. PO Guy asked § 87(2)(b) why he was driving so recklessly and § 87(2)(b) responded that he was on his way to work and that the officer was slowing him up. PO Guy asked for § 87(2)(b)'s identification. § 87(2)(b) stated that PO Guy was only harassing him because he was black. § 87(2)(b) provided his identification. PO Guy did not recall from where he retrieved this document. § 87(2)(b) also gave PO Guy the vehicle's registration. LT Bute was on the passenger side of the vehicle.

§ 87(2)(b) raised his voice and called PO Guy names like "Nigger" and "Uncle Tom." PO Guy asked § 87(2)(b) to step out of the vehicle. PO Guy asked him to do this as he was yelling, cursing, and gesturing. PO Guy wanted to calm § 87(2)(b) down and separate him

from § 87(2)(b) PO Guy did not intend to arrest § 87(2)(b) at this point, only to summons him for reckless driving. § 87(2)(b) stepped out of the vehicle of his own volition. PO Guy reached into the vehicle, turned off the ignition and removed the keys. He set the keys on the trunk of the vehicle. He did not ask § 87(2)(b) to do this. He did this as he did not want § 87(2)(b) re-entering the vehicle and driving away. He did not search anywhere in the vehicle and he did not touch anything in the vehicle other than the keys. He did not see LT Bute enter the vehicle at any point.

PO Guy walked with § 87(2)(b) to the rear of § 87(2)(b)'s vehicle. At around this time, a marked van arrived and stopped behind PO Guy's vehicle. PO Guy did not recall requesting additional units and believed that the marked van came as they saw PO Guy making the stop. PO Guy did not recall who was in the patrol van. These officers did not interact with § 87(2)(b) and they did not step out of the van. § 87(2)(b) continued to call PO Guy obscene names. § 87(2)(b) had his hands in his front jeans pockets. PO Guy asked him to remove his hands from his pockets. § 87(2)(b) verbally refused and questioned why he would need to. PO Guy explained that it was for safety and asked § 87(2)(b) to remove his hands from his pockets a second time. § 87(2)(b) did not comply. LT Bute stayed on the passenger side with § 87(2)(b) Roger, who did not exit the vehicle. PO Guy gave to the other officers § 87(2)(b)'s identification to run it for warrants and I-Cards. PO Guy did not recall any conversation regarding an SBA card, but he did recall that § 87(2)(b) stated that he had a brother who was a sergeant in the NYPD. § 87(2)(b) asked for his name and shield number and PO Guy responded by verbally stating his name and shield number. PO Guy did not hear him request this information from LT Bute.

PO Guy was informed by the officers in the marked patrol van that § 87(2)(b) had a probable cause I-Card out for him and at this point, PO Guy considered § 87(2)(b) under arrest pursuant to this warrant. PO Guy handcuffed § 87(2)(b) without incident. PO Guy frisked and searched § 87(2)(b) clothing as that is standard procedure during an arrest. PO Guy did not find any suspicious contraband. PO Guy transported § 87(2)(b) to the 67th Precinct stationhouse. § 87(2)(b)'s vehicle was released to § 87(2)(b) who owned the vehicle (as determined by the registration). PO Guy did not recall seeing § 87(2)(b) film the encounter.

PO Guy did not say, nor did he hear said, "I don't give a shit about that." PO Guy did not say, nor did he hear said, "I will tear your ass up." PO Guy did not say, nor did he hear said, "Get the fuck out of the vehicle."

PO Guy reviewed the video footage taken by § 87(2)(b) during the incident. PO Guy identified himself as the officers on the left side of the frame speak with § 87(2)(b) and LT Bute as the other officer whose voice can be heard saying "Erasmus Street and Nostrand."

PO Guy issued two summonses to § 87(2)(b) § 87(2)(b)

Subject Officer: LT MARVIN BUTE

- *For pedigree and assignment information, see enclosure D3.*

Memo Book

LT Bute's memo book entries were consistent with his CCRB statement (encl. D1-2).

CCRB Statement

LT Bute was interviewed at the CCRB on November 19, 2014 (D3-5). § 87(2)(g)

LT Bute confirmed that no other officer was present in his vehicle upon stopping § 87(2)(b). LT Bute denied all the allegations. LT Bute believed that PO Santoro was one of the officers that responded. LT Bute believed that it was likely that § 87(2)(b) was frisked, but he did not have a specific recollection of it.

Other officers interviewed

PO Santoro was interviewed on December 9, 2014 (encl. E4-5). His memo book notes that at 11:50 p.m., LT Bute signed it at the corner of Nostrand Avenue and Erasmus Street (encl. E1-3). PO Santoro did not remember the incident after a review of the facts and watching the video. He explained that his memo book entry refers only to LT Bute signing his memo book and he did not recall when this occurred. PO Santoro was dressed in uniform. He was working with PO Litra and PO Elias on this date.

NYPD Documents

Arrest Report

§ 87(2)(a) 160.50

MISD

An MISD search revealed that PO Litra and PO Santoro ran § 87(2)(b)'s identification on April 26, 2014 (encl. F5).

Other Evidence

Search of CTS

A search of CTS revealed that PO Santoro, PO Litra, and PO Elias are white male officers (encl. G1-3).

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. A3).

Subject Officers CCRB History

- PO Thomas Guy has been a member of the service for three years and there are no substantiated CCRB allegations against him (encl. A1).
- LT Marvin Bute has been a member of the service for 17 years and there are no substantiated CCRB allegations against him (encl. A2).

Conclusion

Identification of Subject Officers

PO Guy acknowledged that he was the officer depicted in the video that was identified by § 87(2)(b) as the officer who searched his vehicle. § 87(2)(g)

LT Bute acknowledged approaching the passenger side of § 87(2)(b)'s vehicle and PO Guy and LT Bute recognized LT Bute's voice in the video recording as the officer who states the location. § 87(2)(g)

§ 87(2)(b) stated that there were three officers who initially stopped him and that one of those officers was a Hispanic male officer. § 87(2)(b) alleged that he asked this officer and LT Bute for their identifying information and shield numbers. § 87(2)(b) only saw two officers stop the vehicle and she described one of those officers as a Hispanic male officer. PO Guy and LT Bute both state that there was no other officer in their vehicle and no other officer initially approached § 87(2)(b)'s vehicle. PO Guy stated that two additional officers arrived, but these officers did not exit the police vehicle and that they were only there to conduct the warrant search. LT Bute stated that PO Santoro and another officer arrived after § 87(2)(b) was handcuffed, but he did not recall what these officers role was in the vehicle stop. PO Santoro acknowledged that his memo book noted that he was at the location with LT Bute, but he did not have any recollection of the incident. A search of CTS further revealed that none of the officers present were Hispanic males. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A—Discourtesy: PO Thomas Guy spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that PO Guy said that he did not “give a shit” about his SBA card and that PO Guy told him that he was going to “tear [his] ass up.” § 87(2)(b) did not allege this. She alleged that PO Guy stated to § 87(2)(b) to “get the fuck out of the car,” but she vacillated as to whether or not PO Guy actually used the word “fuck.”

PO Guy, LT Bute, and PO Santoro all deny hearing this said or saying this themselves.

§ 87(2)(g)

Allegation B—Abuse of Authority: PO Thomas Guy frisked § 87(2)(b)

Allegation C—Abuse of Authority: PO Thomas Guy searched § 87(2)(b)

§ 87(2)(b) alleged that immediately when he was taken out of the vehicle, PO Guy frisked him and searched his pockets. § 87(2)(b) was in the passenger seat of the vehicle at the time and she did not see § 87(2)(b)'s interaction with PO Guy.

PO Guy acknowledged frisking and searching § 87(2)(b) but only after he determined that § 87(2)(b) was being placed under arrest for the open I-Card. LT Bute did not see whether or when PO Guy frisked and searched § 87(2)(b)

§ 87(2)(g)

Allegation D—Abuse of Authority: PO Thomas Guy searched the car in which § 87(2)(b)

was an occupant.

§ 87(2)(b) alleged the PO Guy searched his glove compartment, center console, and front seat and back seat area. § 87(2)(b) denied seeing PO Guy search the vehicle or enter into the vehicle.

PO Guy stated that after he removed § 87(2)(b) from the vehicle, he reached into the vehicle and removed the keys from the ignition. He did this as he did not want § 87(2)(b) to re-enter the vehicle and attempt to flee. He denied searching the vehicle. LT Bute did not recall any officer searching the vehicle.

§ 87(2)(g)

Allegation E—Abuse of Authority: LT Mauvin Bute refused to provide his name to

§ 87(2)(b)

§ 87(2)(b) alleged that after he was handcuffed, he asked LT Bute, “Can you identify yourself? What is your badge number and tax identification?” He was approximately 6 feet away from LT Bute when he asked this.

LT Bute did not recall hearing § 87(2)(b) request his identifying information. PO Guy acknowledged that § 87(2)(b) had asked for PO Guy’s name and shield and that PO Guy provided it, but he did not hear § 87(2)(b) ask for this information from any other officer.

§ 87(2)(g)

Allegation F—Abuse of Authority: An officer refused to provide his shield number to

§ 87(2)(b)

§ 87(2)(g)

Team: One

Investigator: _____ Lily Carayannis December 15, 2014
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

